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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/524,400 | 10/24/2005 | Peter Clifton | 4623-050231 | 4667 |

28289 7590 02/20/2008
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| EXAMINER |
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ELOSHWAY, NIKI MARINA

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| ART UNIT | PAPER NUMBER |
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3781

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| MAIL DATE | DELIVERY MODE |
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02/20/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/524,400

Applicant(s)

CLIFTON ET AL.

Examiner

NIKI M. ELOSHWAY

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ho et al. (U.S. 5,699,933) in view of Setty (U.S. 5,713,484). Ho et al. teach a drinking apparatus, shown in figures 1A and 1B, having a container 1, a lid at 3, a valve, shown in figure 1B. The valve is biased closed by the spring 5B and by gravity. The apparatus of Ho et al. does not include a tamper indicating mechanism closure mechanism. Setty teaches that it is known to provide a container and lid with a tamper indicating closure mechanism. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of Ho et al. with the lid and container having a tamper indicating closure mechanism, as taught by Setty, in order to prevent tampering.

Regarding claim 4, Ho et al. does not teach that the container is a cup. Setty teaches that it is known to provide a cup shaped container. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of Ho et al. with the container being cup shaped, as taught by Setty, in order to give the container a more convention appearance.

3. Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ho et al. (U.S. 5,699,933) in view of Setty (U.S. 5,713,484), as applied to claims 1 and 7 above, and further in view of Pappas et al. (U.S. 2003/0233986A1). The modified apparatus of Ho et al. discloses the claimed invention except for the fluorescent markings. Pappas et al. teach that it is known to provide a dispensing mechanism with fluorescent markings (see paragraph [0075]). It would have been obvious to one having

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ordinary skill in the art at the time the invention was made to provide the modified apparatus of Ho et al. with the valve element having fluorescent markings, as taught by Pappas et al., in order to increase the visual novelty of the device.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art is cited for the dispensing mechanism.

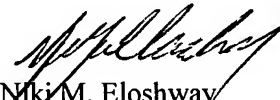
5. THIS ACTION IS NON-FINAL.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NIKI M. ELOSHWAY whose telephone number is (571)272-4538. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Niki M. Eloshway
Examiner
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nme